



## ADMINISTRATIVE PROCEDURE

<b>SUBJECT:</b>  <b>EQUAL EMPLOYMENT OPPORTUNITY; PROHIBITION OF DISCRIMINATION, HARASSMENT, RETALIATION, AND ABUSIVE CONDUCT</b>	<b>Number</b> <b><u>XII-4</u></b>	<b>Effective Date:</b> <b>Issued: <u>11/1/2004</u></b> <b>Revised: <u>3/28/2019</u></b>	<b>Page 1 of 7</b>
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### **PURPOSE:**

To set forth the policy of the Contra Costa Water District (District) concerning Equal Employment Opportunity for applicants, employees, and contractors, as well as the policy prohibiting work-related discrimination, harassment, retaliation, and abusive conduct.

### **DEFINITIONS:**

Protected Categories: State and federal regulations currently identify those categories protected by employment discrimination laws (Protected Categories) as: race, color, religion, religious creed (including religious dress and grooming practices), national origin, ancestry, citizenship, physical or mental disability (including HIV and AIDS), medical condition (including cancer and genetic characteristics), genetic information, marital status, registered domestic partner status, sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity, gender expression, age (40 years and over), sexual orientation, veteran and/or military status, protected medical leaves (requesting or approved for leave under the Family and Medical leave Act or the California Family Rights Act), domestic violence victim status, reporting or assisting in reporting suspected violations of law or this policy, and participation in administrative investigations or related proceedings. Protected Categories also includes any other characteristic protected by state or federal law.

Protected Activity: Protected Activity for purposes of this policy includes, but is not limited to, situations where in good faith, an individual participates in reporting or assisting in reporting suspected violations of this policy or participates in an administrative or internal investigation or related proceedings, exercises concerted activity rights, requests a reasonable accommodation or religious accommodation, or refuses to carry out a work assignment believed to be discriminatory or otherwise in violation of this policy.

Discrimination: As used in this policy, discrimination means the unequal, unfair, or inappropriate treatment of an applicant, employee, or contractor in any aspect of employment, or of providing services to the District, based solely or in part on the individual's Protected Category, or otherwise as defined by applicable law.

Harassment: As used in this policy, harassment means disrespectful, inappropriate, or unprofessional conduct towards an individual based solely or in part on the individual's Protected Category, or otherwise as defined by applicable law.

Retaliation: As used in this policy, retaliation means any adverse employment action taken against an individual because the individual engaged in Protected Activity, or otherwise as defined by applicable law.

Abusive Conduct: As used in this policy, abusive conduct is workplace or work-related conduct with malice, that a reasonable person would find hostile, offensive, and/or unrelated to an employer's legitimate business interests.

Adverse Employment Action: As used in this policy, adverse employment action is conduct that materially affects the terms and conditions of an employee's employment status or that is reasonably likely to deter the employee from engaging in Protected Activity. Even actions that do not result in a direct loss of compensation may be regarded as an adverse employment action when considered in the totality of the circumstances.

Good Faith: As used in this policy, good faith activities and good faith complaints are those made honestly, with a sincerity of intention, and without malice or intent to be untruthful or inaccurate.

## **POLICY:**

### Equal Employment Opportunity Statement

The District is an equal employment opportunity employer. As such, the District employs, recruits, retains, promotes, evaluates, terminates, and otherwise treats all employees, contractors, and job applicants on the basis of merit, qualification, and competence, and without regard to any Protected Category.

The District does not tolerate discrimination, harassment, retaliation, or abusive conduct against employment applicants, employees, or those working on behalf of the District, in any aspect of employment including, as applicable, but not limited to: recruitment, employment, promotion, transfer, training, working conditions, wages and salary administration, employee benefits, and application of policies.

### Policy Prohibiting Discrimination, Harassment, Retaliation, and Abusive Conduct

The District is committed to providing a professional and respectful work environment free from discrimination, harassment, retaliation, and abusive conduct. In keeping with this commitment, the District strictly prohibits unlawful discrimination, harassment, retaliation and abusive conduct, including harassment based on any Protective Category.

This policy applies to all employees and agents of the District (including supervisors, managers, co-workers, non-supervisory employees, and also District Board Members), as well as non-

employees and employees working for third parties (e.g. customers, contractors, and members of the public) with whom an individual comes into contact in the workplace or a work-related situation.

All individuals are expected to assume responsibility for maintaining a work environment that is free from discrimination, harassment, retaliation, and abusive conduct. The District is committed to responding to alleged violations of this policy in a timely and fair manner and to taking appropriate action aimed at ending the prohibited conduct.

The District implements appropriate corrective action, and if applicable, up to and including termination from employment in response to violations of this policy.

### **PROHIBITED CONDUCT:**

The protections and prohibitions identified herein apply to the workplace and to work-related situations (e.g., where there is a work-related nexus) on or off District premises. This may include, but is not limited to: field job sites, work conferences, work-sponsored parties, as well as the use of email or social media.

#### Prohibition from Discrimination

Discrimination against or by any individual covered by this policy, that is based upon a Protected Category violates this policy and is not tolerated. Discrimination typically manifests in an adverse action taken against a covered individual based on the individual's Protected Category.

For more information about unlawful discrimination (and harassment), individuals can access the following website links, or contact Human Resources & Risk staff for hardcopy versions of the information contained therein:

- <https://www.eeoc.gov/laws/types/index.cfm>
- [https://www.dfeh.ca.gov/wpcontent/uploads/sites/32/2017/06/DFEH\\_WorkPlaceDiscriminationHarassmentPoster.pdf](https://www.dfeh.ca.gov/wpcontent/uploads/sites/32/2017/06/DFEH_WorkPlaceDiscriminationHarassmentPoster.pdf)

#### Prohibition from Harassment

Harassment is a form of unlawful discrimination and violates District policy. All unlawful harassment is prohibited. While this section specifically addresses sexual harassment, it is also applicable to all forms of harassment based on any Protected Category.

Sexual harassment is defined as unwelcome sexual advances, request for sexual favors, and other communications (verbal, physical, email, text, etc.) of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or
- Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment need not be motivated by sexual desire and may include situations that began as reciprocal relationships, but later ceased to be reciprocal. The complainant need not be the target of harassing conduct.

Behaviors which may constitute unlawful harassment include, but are not limited to, unwelcome written, verbal, physical and/or visual conduct towards an individual because of a Protected Category. The examples provided below are just that; examples. It is impossible to include every type of behavior that can be considered unlawful harassment in violation of this policy. Some examples include:

- Written: inappropriate, suggestive, or obscene letters, notes, email, texts, signs, etc.;
- Verbal: derogatory comments, slurs, jokes, or epithets related to a Protected Category;
- Physical: touching or other unwelcome body contact, impeding or blocking movements, restraining or otherwise physically interfering with the work of another individual;
- Visual: leering, obscene, vulgar, or any other type of inappropriate gestures, derogatory posters, and objects, pictures, cartoons of a sexual nature, etc., related to a Protected Category.

Prohibition from Retaliation: Retaliation against any individual for making a report, or for participating in an investigation, under this policy is strictly prohibited. Individuals are protected by law and by District policy: for opposing practices that allegedly violate this policy; for filing an internal complaint under this policy; for filing a complaint with the state or federal agencies charged with enforcing employment discrimination laws (e.g., the DFEH or EEOC); or otherwise for participating in any proceedings conducted by the District under this policy, and/or by either the DFEH or EEOC. Good faith reports of discrimination, harassment, or abusive conduct are not used as a basis for adverse employment action against the reporting employee. Retaliation is a violation of this policy and is not tolerated.

For more information about unlawful retaliation, individuals can access the following link or contact Human Resources & Risk staff for a hardcopy of the “Facts About Retaliation:”

- <https://www.eeoc.gov/laws/types/retaliation.cfm>.

Prohibition from Abusive Conduct: In the course of carrying out work responsibilities or engaging in District business, all individuals covered by this policy are expected to treat others with respect and dignity. Conduct that is abusive or bullying is a violation of District policy and is not tolerated.

For more information about abusive conduct, individuals can access the following website link, or contact Human Resources & Risk staff or a hardcopy version:

- [http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=12950.1.&lawCode=GOV](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12950.1.&lawCode=GOV)

There may be situations where abusive conduct also violates District Administrative Procedure XI-2 entitled “Workplace Threat/Violence Policy.”

Potential Disciplinary Action: Discrimination, harassment, retaliation, and/or abusive conduct in violation of this policy are considered forms of employee misconduct. Appropriate disciplinary action, up to and including termination, may be taken against any employee engaging in conduct that violates this policy, as well as against an employee who has knowledge of the same and fails to report it. Any supervisor or manager who has knowledge of such behavior (including alleged behavior) and fails to respond appropriately (e.g., to report the conduct and/or otherwise to take action to end the conduct) is also subject to disciplinary action.

### **REPORTING PROCEDURES:**

Any individual who becomes aware of, or is the subject of, discrimination, harassment, retaliation, or abusive conduct as prohibited under this policy, shall promptly report the incident to the supervisor or manager, union representative and/or a staff member of the Human Resources & Risk Department. All reports of discrimination and harassment will remain confidential to the extent possible; however, in the process of conducting a thorough investigation of the incident, the factual basis of the report, the parties involved, as well as the names of witnesses and other relevant details may be disclosed in the investigatory interviews and follow-up meetings for the purpose of completing the investigation and making findings concerning the reported incident.

The individual subjected to, or aware of, conduct in violation of this policy is encouraged, but is not required to, tell the alleged perpetrator to stop the misconduct.

District supervisors and managers are required to report complaints of misconduct to the Human Resources & Risk Manager or designee. When reports of alleged discrimination, harassment, retaliation, and/or abusive conduct are received by the District, the Human Resources & Risk Manager or designee shall supervise the process of completing a prompt, fair, thorough, timely, and to the extent possible, confidential investigation that includes interviews, gathering relevant information, and preparation of a written summary of findings. The investigation will be completed by qualified personnel, and will be documented as appropriate. If, after assessing the circumstances, the Human Resources & Risk Manager or designee concludes interim steps would be prudent to protect an affected individual from further alleged misconduct while the investigation is conducted, those steps will be recommended to the affected Department. The affected Department is responsible to implement such measures.

### **RESPONSIBILITIES:**

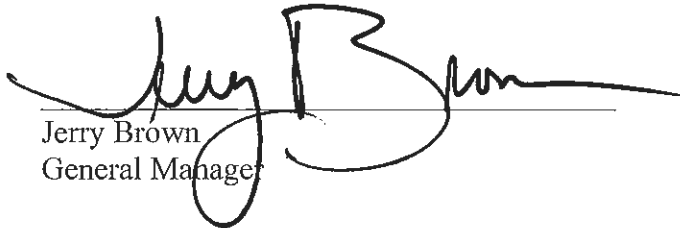
1. **All District Employees, District Board Members, and Contractors** have the responsibility to:
  - a. Be informed of this policy and administrative procedure.
  - b. Refrain from any conduct that would or does violate this policy.

- c. Attend mandatory trainings related to preventing discrimination, harassment, retaliation, and abusive conduct.
  - d. Promptly report any incident in which the covered individual believes they or another covered individual has been subjected to conduct violating this policy. This reporting requirement is also applicable to witnesses of any behavior that could reasonably be perceived as violating this policy. The report should be made to:
    - i. Any District supervisor or manager, any staff member in the Human Resources & Risk Department, and/or a union representative.
    - ii. If the individual is uncomfortable reporting the complaint to a District supervisor, manager, staff member of the Human Resources & Risk Department, and/or a union representative for any reason including, but not limited to a complaint against a Board Member, the General Manager, an Assistant General Manager, a Director, a Manager, a member of the Human Resource & Risk Department, a union steward, or anyone else, the individual may report the behavior directly to the District's General Counsel, and/or to the California Department of Fair Employment and Housing (DFEH at [www.dfeh.ca.gov](http://www.dfeh.ca.gov)) and/or to the federal Equal Employment Opportunity Commission (EEOC at [www.eeoc.gov](http://www.eeoc.gov)). Complaints against the District's General Counsel should be reported to the Board President and the Human Resources & Risk Manager.
2. **All District Managers and Supervisors** have the additional responsibility to:
- a. Ensure their work units comply with this policy.
  - b. Take all complaints under this policy seriously and promptly inform the Human Resources & Risk Manager or designee of any policy-related issues or complaints within the same work day that the manager or supervisor becomes aware of the incident if at all possible. The manager or supervisor should only disclose the complaint information to those to whom the manager or supervisor reports.
  - c. Distribute to and discuss this policy with all existing contractors and to new contractors within ten work days of service.
  - d. Promptly implement, as necessary, any remedial, provisional, or final action as recommended by the Human Resources & Risk Manager or designee.
3. **The Human Resources & Risk Manager**, or the Manager's designee, has the additional responsibility to:
- a. Distribute to and discuss this policy with all existing employees and to new employees as soon as possible, or in any event no later than ten work days following the employee's first

day of service. In addition, the Human Resources & Risk Manager should ensure this policy is distributed to any other covered individual.

- b. Promptly investigate all reported incidents under this policy, or make arrangement for an outside qualified professional to conduct the investigation.
- c. Ensure a discreet, timely, thorough, and fair investigation, maintaining confidentiality insofar as possible without hindering completion of a comprehensive investigation.
- d. Promptly schedule a post-investigation meeting with the individuals involved in the complaint to discuss the findings of the investigation and proposed resolution, insofar as they directly impact the individual.
- e. Recommend that corrective action and/or disciplinary action be implemented, as appropriate to the particular findings of the investigation.
- f. Maintain a confidential file record of all complaints, investigation summaries, and actions taken that pertain to this policy.

APPROVED:



Jerry Brown  
General Manager